

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Reserved on: 29.01.2026

Pronounced on: 26.02.2026

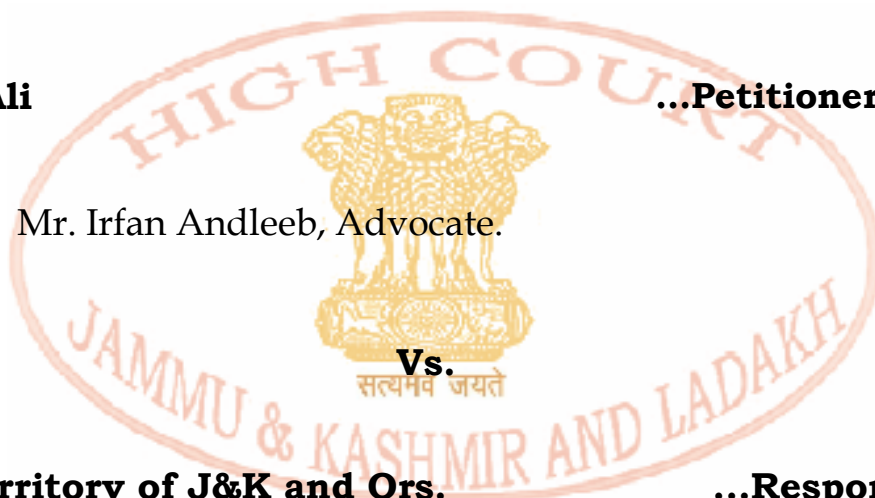
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HCP No.64/2025

Liyakat Ali

...Petitioner(s)

Through: Mr. Irfan Andleeb, Advocate.



Union Territory of J&K and Ors.

...Respondent(s)

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

Judgment

1. Heard learned counsel for the petitioner.
2. The petitioner- Liyakat Ali acting through his wife- Mst. Shahnaz Sultan came forward with the institution of present writ petition on **08.04.2025** thereby seeking a writ of habeas corpus for getting his person out of preventive detention custody inflicted upon him by virtue of an order passed by the respondent No.2- Divisional Commissioner, Kashmir.

3. The Senior Superintendent of Police (SSP), Srinagar, by virtue of his communication No. **LGL/Det-PIT/2025/8129-32** dated **04.03.2025**, submitted a dossier by reference to the petitioner- Liyakat Ali before the respondent No.2- Divisional Commissioner, Kashmir thereby soliciting exercise of jurisdiction under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (PIT NDPS), 1988.

4. On the basis of the dossier so submitted by the Senior Superintendent of Police (SSP) Srinagar, the respondent No.2- Divisional Commissioner, Kashmir came forward with issuance of detention Order **No. DIVCOM- "K"/53/2025** dated **24.03.2025** thereby ordering the preventive detention of the petitioner under the PIT NDPS Act, 1988 for the purpose of preventing the petitioner from indulging in activities falling within the scope of mischief of PIT NDPS Act. The detention order was based upon grounds of detention formulated by the respondent No.2- Divisional Commissioner, Kashmir.

5. In the grounds of detention by reference to petitioner's alleged involvement in FIR

No.128/2022 registered by Police Station, Nowgam for alleged commission of offences under section 8/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 came to be the highlight reference point for projecting the petitioner as a peddler of psychotropic drugs by referring to petitioner as an active member of large drug mafia.

6. Pursuant to the detention order, the petitioner came to be taken into custody and detained in District Jail, Udhampur where from the petitioner acting through his wife submitted a written representation dated **08.04.2025** to the Government for revocation of his preventive detention.

7. Coinciding with his representation dated **08.04.2025** the petitioner came forward with the institution of the present writ petition challenging the detention on the grounds set out in paragraph- 6 (a) to (m).

8. Counter affidavit to the writ petition came to be filed on **18.07.2025** wherein- Vijay Kumar Bidhuri (IAS)- Divisional Commissioner, Kashmir came forward with a position that pursuant to the detention order, the petitioner was picked up and

detained on **26.03.2025** wherefrom period of one year detention came to set in and by that reference the petitioner is now left with short of one month of reminder of detention custody when this writ petition is coming up for its adjudication.

9. The preventive detention of the petitioner, when this Court examines, is heavily resting upon the petitioner's involvement in criminal case borne out of FIR **No.128/2022** in which the petitioner came to be bailed out, but without taking the trouble of placing the said bail order of the criminal court of law before the respondent No.2- Divisional Commissioner Kashmir, Senior Superintendent of Police (SSP) Srinagar submitted dossier as if full presentation of facts was not an obligation on his part before the detention order making authority.

10. Once the contours and context of the bail order itself was not available to the Senior Superintendent of Police (SSP) Srinagar and consequently with the respondent No.2- Divisional Commissioner, Kashmir, how could the petitioner be read and reckoned as a potential case for preventive detention seeing through the lens of his involvement in FIR **No.128/2022**. It is here where

the sponsoring as well as detention order making authority fell in serious error of law and procedure thereby vitiating the preventive detention order of the petitioner *ab-initio*, which accordingly, is, destined to suffer quashment.

11.Therefore, detention order **No. DIVCOM-“K”/53/2025** dated **24.03.2025** passed by the respondent No.2- Divisional Commissioner, Kashmir read with confirmation/approval order passed by the Government are hereby quashed.

12.The petitioner is directed to be restored to his personal liberty immediately by the Superintendent of the concerned Jail.

13.**Disposed of**, accordingly.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

26.02.2026

“Opinder”

Whether the judgment is speaking: Yes

Whether the judgment is reportable: No